HIGH COURT OF UTTARANCHAL AT NAINITAL

(Court's order whether the case is or not approved for reporting.)

Chapter VIII Rule 32 (2)(b)

Description of the case. Gear

T.A. No. 19/2003

Smt. Menka Verma
vs
Deepak Verma

Approved for reporting

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~~Not Approved for Reporting~~

Date of decision 23.9.2004

Initial of Judge

In The High Court of Uttaranchal, at Nainital.

Transfer Application No. 19/2003

Smt. Menka Verma Applicant.

Vs.

Deepak Verma ...Respondents.

Dated: 23-9-2004

Hon'ble Rajesh Tandon J.

Heard Sri Sharad Sharma, learned counsel for the applicant and Sri Ambrish Chatterji Advocate for the respondent.

By the transfer application the applicant has prayed for transfer of civil case no. 79/2003 Deepak Verma Vs. Menka Verma filed U/s 9 of Hindu Marriage Act.

Briefly stated the facts of the case are that both the parties were married on 11.12.2001 at District , Udham Singh Nagar. Thereafter the applicant was blessed with a daughter on 29-9-2002. She has initiated the proceedings U/s 125 of the Code of Criminal Procedure by filing an application before the Family Court Udham Singh Nagar which was registered as case no. 171/2003. She has also filed another case no. 126/2003 with a prayer for return of 'Stridhan' and these two proceedings are pending in the Family Court, Udham Singh Nagar. The proceedings under Section 9 of the Hindu Marriage Act were also instituted on 21-11-2003 by the respondent. The grievance of the applicnt is that she is residing with her father at Udham Singh Nagar and the proceedings in the District of Almora may be transferred to Udham Singh Nagar.

Having heard both the parties the respondent has no objection for the case be tried at Udham Singh Nagar. Further more since the applicant is residing at Udham Singh Nagar, therefore the interest of justice requires that the entire proceedings may be proceeded at Udham Singh Nagar.

The Apex Court in the cae of *Raj Laxmi Sharma Vs. Dilip Kumar Sharma JT 2000 (8) S.C. 150* it has been held as under:-

> *"So far as we are concerned, the wife has made out a case for transfer. We do not agree that the court to which the proceedings are transferred should not be located in the State of Uttar Pradesh. We think that, in the circumstances, it is appropriate that the court to which the proceedings are transferred should be located where the petitioner now stays.*
>
> *The transfer petition is, therefore, made absoslute and Matrimonial Case No. 35 of 1999 filed in the Court of the Judicial Magistrate, Ranchi shall stand transferred to the Family Court at Agra, Uttar Pradesh."*

Consequently the civil case no. 79/2003 Deepak Verma Vs. Menka Verma filed under section 9 of the Hindu Marriage Act is transferred to the Court of Judge, Family Court, Udham Singh Nagar from the Court of Civil Judge (S.D.) Almora. Since both the parties are litigating on various proceedings, it is desirable in the interest of justice that all the proceedings may be expedited and heard at the earliest.

Transfer application is allowed. No order as to costs.

ISB **(Rajesh Tandon, J.)**